

15 September 2023

To: Hearing Panel,
Commission
for the WCC's Proposed District Plan.

JCA Submission for the Wrap Up (Streams 1 to 5) including the Design Guides

Introduction

The following is the Submission of the Johnsonville Community Association Incorporated (JCA), for the Wrap Up (Streams 1 to 5) including the Design Guides, to the Hearing Panel on the Proposed District Plan (PDP) for 2024-2034.

The Commission has asked that the focus from submitters for the Wrap Up Stream be on the Wrap Up and Design Guide Section 42A Reports' evaluation and recommendations.

In the Commission's Minute 27, dated 27 July 2023, a Table was provided which summarises outstanding submission points from the Commission's perspective.

This submission from the Johnsonville Community Association (JCA) has therefore primarily concentrated on points from the JCA in relation to those outstanding submission points.

Minute 27 Table – Outstanding JCA Submission Points

Minute 27 Table - Page 18 - Submission 429.3 – JCA

The Table summarises JCA's submission point as follows:

“Considers that the New Zealand Motu Study identified the property value effect of each hour of sunlight lost, valuing it at around 2.4% per hour lost. Seeks that WCC undertake independent monitoring of what happens to Wellington Property Market prices when properties are surrounded by High Density Developments over 3 storeys versus those that aren't”.

The Council officer's assessment in paragraph 189 of the Section 42A Report is as follows:

“I thank the JCA for their topic of a research project to determine the impacts of the MDRS. It is a useful suggestion for the suite of s35 of the RMA monitoring project”.

The Council officer’s recommendation on page 10 of Part 1 – Appendix A – Recommended Decisions on Submissions states the following:

“Accept in part”.

The JCA’s response to the Council officer’s assessment and recommendation is as follows:

- The Council officer’s assessment that *“it is a useful suggestion”* ignores the fact that it is a recommendation and NOT a suggestion.
- When the JCA made this recommendation in its submission on the Draft District Plan (DDP) in September 2022 it STRESSED that it wanted *“independent monitoring”* of this situation. The JCA is not comfortable with this work being carried out within *“the suite of s35 of the RMA monitoring project”*. In JCA’s submission we specifically stated on page 12 the following regarding independence:

“The JCA notes that rateable values are not relevant to this calculation as they are set by Quotable Value and that QV are also the Council’s valuer so there is a potential for conflict of interest to arise.”

For removal of all doubt in respect of this vital matter, we specifically do not want either:

- Quotable Value, or
- Wellington City Council staff

completing this independent monitoring work.

- The JCA does have confidence in New Zealand Motu Valuing Sunshine study being repeated by the same Motu Research organization which is based in Wellington. This would have the following advantages:
 - it would be genuinely independent, and
 - it would also have the advantages of continuity given that the previous Valuing Sunshine study was carried out by Motu Research on Wellington properties as described on page 12 of JCA’s submission.
- The Council officer’s recommendation *“Accept in part”* is unclear. It is not clear what has NOT been accepted. So, the JCA is in the invidious position of not knowing what has not been accepted. Possibly the Commission is in a similar position. This is a completely unacceptable situation on such a VITAL issue adversely affecting amenity value caused by significantly increased densification.

The JCA considers that the Commission should direct the Council officer to make it clear:

- what he is accepting, and
- what he is not accepting, and
- the JCA should have a right of reply once his recommendation is clarified.

Other relevant facts regarding this issue are:

- The New Zealand Motu study findings, and therefore evidence, has NOT been challenged by Council officers when providing their written evidence to this Commission.
- This infers that there is implicit acceptance by Council officers that the New Zealand Motu study findings in relation to valuing sunshine are correct. http://motu-www.motu.org.nz/wpapers/17_13.pdf
- There is a substantial financial loss to home owners unless sunlight loss, arising from increased densification, is either:
 - compensated for, or
 - mitigated against.
- Sunlight is very highly valued by home owners.
- JCA's Submission to the Commission in Stream 2 commented extensively on the loss of sunlight issue.

Recommendations:

The Commission to note that the New Zealand Motu Study findings in relation to Valuing Sunshine have not been challenged by the Wellington City Council.

The JCA requests the Commission support the JCA's recommendations to the WCC that:

- **the WCC arranges for an independent monitoring study be carried out to check the effect on Wellington property values of loss sunshine, and**
- **the independent monitoring study be carried out by the Motu Research organisation for independence and continuity reasons.**

Minute 27 Table - Page 18 - Submission 429.4 – JCA

The Table summarises JCA's submission point 429.4 as follows:

"Considers that Amenity Values are protected under the Resource Management Act, and are valuable - inferring that any loss of amenity value should be compensated for. Recommendation not specified".

The Council officer provided no assessment of submission point 429.4 in his Section 42A Report. The Council officer's recommendation on page 10 of Part 1 – Appendix A – Recommended Decisions on Submissions states the following in relation to 429.4:

“Reject” and “Amenity values are assessed via RC (Resource Consent) but are not compensated for through the DP (District Plan)”

The JCA’s response to the Council officer’s assessment and recommendation is as follows:

- Amenity protection in Section 7(c) of the Resource Management Act (RMA) has NOT been repealed by the current government.
- Section 7(c) of the RMA requires amenity values to be **maintained and enhanced**.
- The NPS-UD is a government regulation passed by Order in Council. As a government regulation it is subordinate to statutory law, e.g. RMA, passed by Parliament.
- The courts will order mitigation where amenity values have been infringed. There is a well-known case in Wellington during the last decade where a property owner built a tall fence play fort which blocked his neighbour’s terraced view of the sea. The offending property owner was ordered by the Environment Court in May 2018 to dismantle the tall fence play fort and relocate it lower down on his property. The Aitcheson versus Wellington City Council and Walmsley court case refers.
- The Council has entered into a \$5 million contractual arrangement with Stride to improve traffic management amenity for the Johnsonville community with Stride to pay compensation for the impact of it’s activities. Compensation was payable because a re-developed Johnsonville mall is likely to have higher customer traffic numbers.
- The latter example strongly infer that compensation payments, or their equivalents, are NOT prohibited under legislation when promoting the development or, indeed, in formulating a District Plan. If there is a specific prohibition in the district planning legislation against compensation, where is it?
- Any loss of amenity value (and particularly the loss of sunlight) should be required in the PDP to be either:
 - compensated for, and / or
 - mandatorily mitigated against if compensation is not appropriate.
- Developers should therefore be required in the PDP to either:
 - provide financial compensation, and / or
 - be required to mandatorily mitigate where there is any loss of amenity.
- Amenity value is NOT just loss of financial value and loss of sunlight. It also includes the following:
 - Loss of open and/or green space, and
 - Loss of views, and

- Inability to have solar energy due to lack of sunlight, and
- Loss of privacy, and
- Loss of tranquility due to Increased noise.

Recommendations:

The Commission to note that the protection for amenity values section 7(c) of the Resource Management Act has not been repealed by the current Labour government.

The JCA requests the Commission support the JCA’s recommendations to the WCC that:

- **the maintenance and enhancement of amenity value is still currently protected by the Resource Management Act, and**
- **if there is a loss of amenity value for neighbouring property owners arising from densification then the PDP needs to provide protection against that loss of amenity value by requiring developers to either:**
 - **provide financial compensation, and / or**
 - **mandatorily mitigate their planning arrangements to avoid loss of amenity.**

Minute 27 Table - Page 18 - Submission 429.5 – JCA

The Table summarises JCA’s submission point 429.5 as follows:

“Considers that neighbouring properties losing amenities and value because of nearby 6 or more storey high density accommodation housing located in the outer suburbs is essentially an economic wealth transfer from those residents to the developer without compensation. Seeks that the PDP include a compensation framework for neighbouring residents who suffer a loss of value and amenity due to nearby high-density accommodation housing developments”.

The Council officer provides no assessment of submission point 429.5 in his Section 42A Report. The Council officer’s recommendation on page 10 of Part 1 – Appendix A – Recommended Decisions on Submissions states the following in relation to 429.5:

“Reject”.

The JCA’s response to the Council officer’s assessment and recommendation is as follows:

- **In general**, if a north facing 6 storey building is located in front of a typical one or two storey home in an outer suburb, like Johnsonville, there will be a substantial fall in the financial value of that one or two

storey home. This is because there will be a substantial loss of amenity value for that one or two storey home with the loss of sunlight being a very significant factor, as well as issues around loss of privacy and noise.

- If that one or two storey home is **located at, or near the edge of, a zone that borders a higher building zone (say from a MRZ to a HRZ)** then the following adverse amenity effects will occur:
 - The one or two storey home located on the edge of the MRZ will have a lower property financial value compared to other one or two storey homes, with the same amenity, located elsewhere in the MRZ.
 - Relative to the financial value of other homes with similar amenity in the MRZ that are not located on the edge of the MRZ, the value of that one or two storey home located at the edge of the MRZ will be lower.
 - There will be **no uplift in the land value** of these one or two storey homes, located at the edge of the MRZ, simply **because they are located next to a HRZ** which will have, relatively speaking, higher land values.
 - These one or two storey homes located at the edge of the MRZ will be very unattractive to home buyers because of the low amenity of these homes.
- **Within the HRZ**, the JCA strongly believes that if a north facing 6 storey building is located in front of a typical one or two storey home in an outer suburb HRZ, like Johnsonville, there will be a fall in the financial value of that one or two storey home. This fall is due to the fact that the amenity, particularly the loss of sunshine, and therefore the improvement value, will fall substantially. This fall may be offset either partly or fully by the increase in the land value component of that one or two storey home but this is not guaranteed. This reinforces the importance of JCA's recommendation that there should be independent monitoring of what happens to Wellington Property Market prices when properties are surrounded by High Density Developments over 3 storeys versus those that aren't.
- **Between the HRZ and the MCZ**, a similar adverse effect on amenity will also occur **when a six storey apartment building is located at, or near the edge of, a zone that borders a higher building zone (say from a 6 storey apartment in the HRZ to a 10 storey apartment in the MCZ)**. This situation will be considerably worsened in a situation where the City Outcomes Contribution provision applies. In this situation one could have a 6 storey apartment in the HRZ with a 15 storey, or higher, apartment building in the MCZ in front of it. And in a worst-case scenario if a 1 or 2 storey home in MRZ is located next to a 10 or 15 storey

apartment building in a MCZ which allows the City Outcomes Contribution provision to apply to that MCZ.

- When these adverse amenity effects occur on neighbouring properties who benefits? The developer primarily does. The developer takes away most, or all, of the following amenity from neighbouring properties:
 - sunlight, and
 - open and/or green space, and
 - views, and
 - ability to have solar due to lack of sunlight, and
 - privacy, and
 - tranquility due to Increased noise, and
 - financial value.
- The developer receives a massive development benefit, in terms of extra height including from the City Outcomes Contribution provision, from the Council and the subsequent sale values of his or her properties. There is little doubt that this outcome results in a substantial wealth transfer from current home owners, in particular, to the developer. Hence, the JCA considers that it is fair that the developer should pay compensation to neighbouring property owners from this economic wealth transfer opportunity that the Council has enabled for the developer. This, then, results in a win-win-win-win outcome for neighbouring property owners, new residents, the developer and the Council.
- In the JCA's submission on the DDP in September 2022 we outlined, on pages 12 and 13, in some detail how the Council could implement a compensation framework that would actually work in practice.
- If it is agreed that there is a loss of amenity value for neighbouring properties in the above situations, then an alternative to a compensation framework would be a mandatory mitigation framework included in the PDP.
- A mandatory mitigation framework would comprise the following:
 - Maximising sunlight within and between zones, and
 - Minimising shade within and between zones, and
 - Road separation within and between zones, and
 - Stepped setbacks within and between zones, and
 - Usage of recession planes within and between zones, and
 - Usage of viewshafts within and between zones, and
 - Avoidance of wind tunnels within and between zones, and
 - Usage of imaginative architectural design for residential and non-residential buildings.

Recommendations:

The Commission to note:

- **the examples given above where neighbouring properties near higher building heights due to densification will incur a loss of amenity value including loss of sunlight and loss of the financial value of their properties, and**
- **that there is an economic wealth transfer to developers who benefit financially substantially from higher building height development opportunities, and**
- **developers are therefore in a position to compensate or mitigate loss of amenity arising from their developments**

The JCA requests the Commission support the JCA's recommendations to the WCC that:

- **the PDP should require either:**
 - **a financial compensation framework AND/OR**
 - **a planning mitigation framework****to be in place to compensate for the loss of amenity to neighbouring properties adversely impacted by densification, and**
- **the financial compensation framework is to be the framework described in the JCA's Submission on the DDP in September 2022, and**
- **the planning mitigation framework is to comprise the following aspects:**
 - **maximising sunlight within and between zones, and**
 - **minimising shade within and between zones, and**
 - **road separation within and between zones, and**
 - **stepped setbacks within and between zones, and**
 - **usage of recession planes within and between zones, and**
 - **usage of viewshafts within and between zones, and**
 - **avoidance of wind tunnels within and between zones, and**
 - **usage of imaginative architectural design for residential and non-residential buildings.**

Minute 27 Table - Page 18 - Submission 429.7 – JCA

The Table summarises JCA's submission point 429.7 as follows:

"Considers that Johnsonville is expected to have the highest population growth of any Wellington suburb and needs infrastructure investment to account for this. Considers that Johnsonville has a high level of traffic and there are many uncompleted road projects. Seeks that WCC complete planned roading improvements for the Johnsonville Triangle".

The Council officer provides the following assessment of submission point 429.7 in paragraphs 317 to 319 of his Section 42A Report:

317. A variety of matters were commented on including parking, road corridors, road maintenance, and elected representatives.

318. The following submissions are considered out of scope as they:

a) Have not been made on the PDP nor its content; and

b) Cannot be granted relief sought by the submitter under the RMA or through the PDP.

319. Submitters are welcome to challenge my assessment and I will response in rebuttal, at the hearing or through right of reply.

The Council officer's recommendation on page 10 of Part 1 – Appendix A – Recommended Decisions on Submissions states the following in relation to 429.7:

“Reject”.

The JCA's response to the Council officer's assessment and recommendation is as follows:

- The Council officer's argument does not make sense. On the one hand, the Council wants densification but, on the other hand, it doesn't want its PDP to ensure that Johnsonville is fully prepared for densification. In the above recommendation, the JCA is pointing out the traffic management and traffic infrastructure upgrades that needs to be made/implemented to ensure that Johnsonville is ready for densification. A primary thrust from this Council's PDP is that Johnsonville is ready for densification when it is really clear to the JCA that the Council is not ready for densification. Also, the Council officer's argument is inconsistent with the ensuring Johnsonville is ready for densification.
- Traffic management and traffic infrastructure upgrades are fundamental pre-requisite enablers for densification to be successful.
- As such, the Council officer's argument does not represent fully integrated urban planning. Therefore, his advice does not represent best practice.
- The JCA has repeatedly emphasized the absolute importance of ALL infrastructure shortfalls being fully rectified BEFORE densification proceeds in Johnsonville. Again, it is emphasized that this is best urban planning practice.
- The key driver behind the Council officer's argument is that the Council is NOT ready for densification.

As discussed with Commissioner Daysh during Stream 4, Johnsonville needs a Traffic Management Plan which should include the following:

- Congestion relief. Johnsonville is often a through route to/from other areas so it needs better traffic management or bypasses, and
- Improved traffic lights phasing. Residents need to be able to cross roads without having to wait for ages as we do now. Johnsonville is often windy/cold so it is not inviting to stand waiting at traffic lights, and
- More visibility at the 2 accident prone roundabouts at the northern end of Johnsonville Road. This will promote improved public safety as well as traffic flows, and
- Removal of the bus hub from Moorefield Road and placement of the bus hub next to the train station as an integrated, fully covered and sheltered public transport hub, and
- There is a need for a bypass directly on to the SH1 motorway down Ngauranga Gorge for motorists from Khandallah (effectively bypassing Johnsonville), and
- A true and real rapid transit service for Johnsonville as the current bus and train services are slow and unreliable and do not meet rapid transit service frequencies, and
- Inadequate car parking particularly for workers and residents in Johnsonville as well as visitors/shoppers from surrounding areas. As a metropolitan centre, Johnsonville is supposed to be a hub for the surrounding areas. For many, this means that the only practical means to access Johnsonville is by car. So, the Council needs to accept that Johnsonville will need car parking in order to fulfil its metropolitan centre hub role.

Recommendations:

The Commission to note the current considerable traffic management, traffic infrastructure and public transport issues that need to be fully rectified before densification should proceed in Johnsonville.

The JCA requests the Commission support the JCA's recommendations to the WCC that:

- **Johnsonville needs a Traffic Management Plan developed in consultation with Johnsonville based organisations, and**
- **the Council proceed ahead in a timely fashion to complete all outstanding traffic and roading projects around the Johnsonville Triangle and elsewhere so that Johnsonville is ready for densification.**

Minute 27 Table - Page 18 - Submission 429.8 – JCA

The Table summarises JCA's submission point 429.8 as follows:

"Considers that Johnsonville is expected to have the highest population growth of any Wellington suburb and needs infrastructure investment to account for this. Considers that Johnsonville has a high level of traffic and there are many uncompleted road projects. Seeks that WCC support planned growth in Johnsonville".

The Council officer's assessment of 429.8 is in paragraphs 287, 291 and 296 of the Section 42A Report is as follows:

"287. In respect of JCA [429.8], please see my commentary in 6.1.20 'Community facilities and bird habitats' on this matter".

"291. JCA [429.11] seeks that the WCC outline the specific planned investments that require further investment in facilities and infrastructure, about Indoor sports stadiums, parks, greenspace, public transport and roading".

"296. I agree with Mt Victoria Residents' Association [342.8] that investment in green and open spaces needs to be undertaken alongside intensification. The Council is starting to undertake work identifying deficits and opportunities in this space, starting with Johnsonville".

The Council officer's recommendation for 429.8 on page 10 of Part 1 – Appendix A – Recommended Decisions on Submissions states the following:

"Accept in part".

"HS1

HS4 - Part 2 - MCZ".

The JCA's response to the Council officer's assessment and recommendation is as follows:

- The Council officer's assessment and recommendation set out above are confusing.
- The Council officer's assessment informs JCA in paragraph 287 to go to the 'Community facilities and bird habitats' section of his report. In paragraph 291 he is referring to JCA submission point 429.11 and not 429.8. And in paragraph 296 he is discussing green and open spaces and not traffic infrastructure upgrades.
- The Council officer's recommendation *"Accept in part"* is unclear. It is not clear what has NOT been accepted. So, the JCA is in the invidious position of not knowing what has not been accepted. Possibly the Commission is in a similar position. This is a completely unacceptable situation on such a VITAL issue as traffic infrastructure upgrades needed by Johnsonville for increased densification.

The JCA considers that the Commission should direct the Council officer to make it clear:

- what he is accepting, and
 - what he is not accepting and
 - the JCA should have a right of reply once his recommendation is clarified.
- Given the latter situation, the JCA asks that the arguments set out in the JCA's response to submission point 429.7 be taken-into-account by the Commission when the Council officer makes it clear WHAT has NOT been accepted by the Council officer in relation to submission point 429.8.

Recommendations:

The Commission to note:

- **the Council officer's confused assessment of submission point 429.8, and**
- **the Council officer has not made it clear what he has NOT accepted in this submission point and that this needs to be made clear.**

The JCA requests the Commission support the JCA's recommendation to the WCC that the WCC can BEST SUPPORT any planned population growth in Johnsonville by ensuring that all infrastructure deficits are fully rectified BEFORE densification is implemented.

Minute 27 Table - Page 18 - Submission 429.9 – JCA

The Table summarises JCA's submission point 429.9 as follows:

“Considers that Johnsonville lacks public parking and green space and that the site of the old Johnsonville library is a good opportunity. It is the only WCC owned site in the Triangle, it is sunny, sheltered and a decent distance from other green space, and there are other sites that can be repurposed for social housing”.

The Council officer provides the following assessment of submission point 429.9 in paragraphs 317 to 319 of his Section 42A Report:

“317. A variety of matters were commented on including parking, road corridors, road maintenance, and elected representatives.

318. The following submissions are considered out of scope as they:

- a) Have not been made on the PDP nor its content; and*
- b) Cannot be granted relief sought by the submitter under the RMA or through the PDP.*

319. Submitters are welcome to challenge my assessment and I will response in rebuttal, at the hearing or through right of reply”.

The Council officer’s recommendation on page 10 of Part 1 – Appendix A – Recommended Decisions on Submissions states the following in relation to 429.9:

“Reject”.

The JCA’s response to the Council officer’s assessment and recommendation is as follows:

- Green space will be essential in a densified Johnsonville metropolitan centre.
- Classifying a green space recommendation as an out of scope submission point doesn’t make sense because green space is a fundamental pre-requisite enabler for physical and mental health in a densified urban environment.
- The JCA commented extensively on the issues of green space and usage of the old library site for green space in the centre of Johnsonville in its submission for Stream 5 to the Commission.
- The Council officer’s argument is confusing. On the one hand he is saying that submission point 429.9 is out of scope and is rejected. On the other hand, he is saying in paragraph 296 of the Section 42A Report the following:
“296. I agree with Mt Victoria Residents’ Association [342.8] that investment in green and open spaces needs to be undertaken alongside intensification. The Council is starting to undertake work identifying deficits and opportunities in this space, starting with Johnsonville”.
- The provision of green space in densified urban environments is best practice urban planning. Notwithstanding this fact, the Council officer is not prepared to recommend accordingly for Johnsonville even though Johnsonville is earmarked for early and major densification.
- A primary thrust from this Council’s PDP is that Johnsonville is ready for densification when it is really clear to the JCA that it is not ready for densification and these shortfalls are not been taken seriously by Council as shown by the Council officer’s confused argument.
- The key driver behind the Council officer’s confusion is that the Council is NOT ready to implement densification in a fully integrated best practice urban planning manner and thus a confused position is being presented by the Council officer on this issue.
- The issue of significant lack of public parking in Johnsonville included in submission point 429.9 has already been commented on in the JCA’s

response to the Council officer's assessment and recommendation to submission point 429.7 set out above.

Recommendations:

The Commission to note:

- **that classifying a green space recommendation as an out of scope submission point doesn't make sense because green space is a fundamental pre-requisite enabler for physical and mental health in a densified urban environment, and**
- **the Council does not want provide green space for the centre of Johnsonville even though it is earmarked for major densification, and**
- **the Council's urban planning in this area for Johnsonville is not fully integrated.**

The JCA requests the Commission support the JCA's recommendations to the WCC that:

- **green space be provided within the centre of Johnsonville, and**
- **the Council be required to put forward a proposed sheltered, sunny, central green site within the centre of Johnsonville if the Council does not want to use the old library site for this purpose.**

Minute 27 Table - Page 18 - Submission 429.10 – JCA

The Table summarises JCA's submission point 429.10 as follows:

"Considers that Johnsonville lacks public parking and green space and that the site of the old Johnsonville library is a good opportunity. It is the only WCC owned site in the Triangle, it is sunny, sheltered and a decent distance from other green space, and there are other sites that can be repurposed for social housing. Seeks that development of the Old Library Site in Johnsonville is postponed until Green Space Review is complete".

The Council officer provides the following assessment of submission point 429.10 in paragraphs 317 to 319 of his Section 42A Report:

317. A variety of matters were commented on including parking, road corridors, road maintenance, and elected representatives.

318. The following submissions are considered out of scope as they:

- a) Have not been made on the PDP nor its content; and*
- b) Cannot be granted relief sought by the submitter under the RMA or through the PDP.*

319. Submitters are welcome to challenge my assessment and I will response in rebuttal, at the hearing or through right of reply.

The Council officer's recommendation on page 10 of Part 1 – Appendix A – Recommended Decisions on Submissions states the following in relation to 429.10:

“Reject”.

The JCA's response to the Council officer's assessment and recommendation on 429.10 is as follows:

- The Green Space Review has been completed and Johnsonville's requirements for green space in the centre of Johnsonville have been basically ignored.
- Council management, and also by a very slim majority vote by city councillors, have decided that the old library site is to not be earmarked for green space in the centre of Johnsonville.
- Both the JCA and the JBA (Johnsonville Businesses Association) are completely dissatisfied with this Council decision and the fact that their representations and recommendations regarding usage of the old library site as green space have not been accepted by the Council.
- Green space will be essential in a densified Johnsonville metropolitan centre.
- Classifying a green space recommendation as an out of scope submission point doesn't make sense because green space is a fundamental pre-requisite enabler for physical and mental health in a densified urban environment.
- The JCA commented extensively on the issues of green space and usage of the old library site for green space in the centre of Johnsonville in its submission for Stream 5 to the Commission.
- The Council officer's argument is confusing. On the one hand he is saying that submission point 429.10 is out of scope and is rejected. On the other hand, he is saying in paragraph 296 of the Section 42A Report the following:
“296. I agree with Mt Victoria Residents' Association [342.8] that investment in green and open spaces needs to be undertaken alongside intensification. The Council is starting to undertake work identifying deficits and opportunities in this space, starting with Johnsonville”.
- The provision of green space in densified urban environments is best practice urban planning. Notwithstanding this fact, the Council officer is not prepared to recommend accordingly for Johnsonville even though Johnsonville is earmarked for early and major densification.
- A primary thrust from this Council's PDP is that Johnsonville is ready for densification when it is really clear to the JCA that it is not ready for densification as shown by the Council officer's confused argument.

- The key driver behind the Council officer's confusion is that the Council is NOT ready to implement densification in a fully integrated best practice urban planning manner and thus a confused position is being presented by the Council officer on this issue.

Recommendations:

The Commission to note:

- **that classifying a green space recommendation as an out of scope submission point doesn't make sense because green space is a fundamental pre-requisite enabler for physical and mental health in a densified urban environment, and**
- **The Green Space Review has been completed and Johnsonville's requirements for green space in the centre of Johnsonville have been basically ignored, and**
- **the Council does not want provide green space for the centre of Johnsonville even though it is earmarked for major densification, and**
- **the Council's urban planning in this area for Johnsonville is not fully integrated.**

The JCA requests the Commission support the JCA's recommendations to the WCC that:

- **green space be provided within the centre of Johnsonville, and**
- **the Council be required to put forward a proposed sheltered, sunny, central green site within the centre of Johnsonville if the Council does not want to use the old library site for this purpose.**

Minute 27 Table - Page 18 - Submission 429.11 – JCA

The Table summarises JCA's submission point 429.11 as follows:

"Considers that while Johnsonville does have some public facilities including the new public library and the Alex Moore sports ground, there is a shortage of other facilities. Perhaps the most obvious is the lack of any indoor sports stadium. Other major suburbs have such a facility including Tawa, Ngaio, Newtown and Kilbirnie. Seeks that the WCC outline the specific planned investments that require further investment in facilities and infrastructure, with regard to Indoor sports stadium, parks, greenspace, public transport and roading".

The Council officer's assessment in paragraphs 291 and 296 of the Section 42A Report of 429.11 is as follows:

"291. JCA [429.11] seeks that the WCC outline the specific planned investments that require further investment in facilities and infrastructure, about Indoor sports stadiums, parks, greenspace, public transport and roading".

“296. I agree with Mt Victoria Residents’ Association [342.8] that investment in green and open spaces needs to be undertaken alongside intensification. The Council is starting to undertake work identifying deficits and opportunities in this space, starting with Johnsonville”.

The Council officer’s recommendation on page 11 of Part 1 – Appendix A – Recommended Decisions on Submissions states the following:

*“Seeks that the WCC outline the specific planned investments that require further investment in facilities and infrastructure, with regard to Indoor sports stadium, parks, greenspace, public transport and roading.
[Inferred Decision Requested]”*

“Accept”.

The JCA’s response to the Council officer’s assessment and recommendation for 429.11 is as follows:

- The JCA notes that its recommendation from the JCA’s Submission on the DDP in September 2022 has been accepted.
- The JCA notes that there is no timeline from the Council officer’s response as to WHEN the Council will outline the specific planned investments with regards to Indoor sports stadium, parks, greenspace, public transport and roading.
- The JCA notes that, one year on from JCA’s recommendation in September 2022, there is no certainty regarding **what investments will be made and by when**. This reinforces JCA’s assessment that the Council is not ready to implement densification of Johnsonville.
- The JCA also notes that the JCA, with the JBA, have both submitted to the Council on the need for an indoor sports stadium for Johnsonville.
- The JCA also reiterates its representations and recommendations to the Commission that all infrastructure shortfalls are to be fully rectified BEFORE densification is implemented in Johnsonville.

Recommendation:

The JCA requests the Commission support the JCA’s recommendation to the WCC that all infrastructure shortfalls are to be fully rectified BEFORE densification is implemented in Johnsonville.

Minute 27 Table – Outstanding Other Submission Points

Minute 27 Table - Page 10 – Submission 112.1 - Oliver Sangster

The Table summarises submission point 112.1 as follows:

“Seeks that the Council consult with Kainga Ora and the Ministry of Housing and Urban Development over the use of powers under the Urban Development Act 2020 to acquire the Johnsonville Mall site in the event that development of the site does not occur”.

The Council officer’s assessment in paragraphs 278 to 281 of the Section 42A Report of 112.1 is as follows:

“278. Ultimately the call to engage Kāinga Ora and the Ministry of Housing and Urban Development to regenerate the Johnsonville mall site rests with Councillors.

279. It is difficult for Council to force private landowners to develop their property.

280. In my view, the powers available for a Specified Development Project (SDP) under the Urban Development Act have great potential to regenerate Johnsonville as suggested by Mr. Sangster, in comparison to the Council’s abilities using the Public Works Act.

281. I note that in the first instance the Council has tried to work alongside the landowner, Stride, to achieve a good outcome for the centre. At present this has not eventuated. Stride has also sought increased development potential for its sites in the PDP process. Whether increased potential will indeed serve to incentivise Stride to development its site is unknown”.

The Council officer’s recommendation on page 5 of Part 1 – Appendix A – Recommended Decisions on Submissions states the following:

“Accept in part”.

The JCA’s response to the Council officer’s assessment and recommendation is as follows:

- The Council officer’s recommendation *“Accept in part”* is unclear. It is not clear what has NOT been accepted. So, the JCA is in the invidious position of not knowing what has not been accepted and possibly the Commission is in a similar position. This is a completely unacceptable situation on such a VITAL issue concerning the overall development of the centre of Johnsonville.

The JCA considers that the Commission should direct the Council officer to make it clear:

- what he is accepting, and
- what he is not accepting and

- the JCA should have a right of reply once his recommendation is clarified.
- Does either Kainga Ora and/or the Ministry of Housing and Urban Development have a proven track record and the expertise at redeveloping Metropolitan Centres like Johnsonville? The JCA notes that the expertise to redevelop a Metropolitan Centre, providing a wide range of facilities and services, is not the same as the expertise needed to develop social housing and other residential housing.
- The Council in its PDP has stated that Johnsonville is one of the city's two Metropolitan Centres. If Kainga Ora and/or the Ministry of Housing and Urban Development are put in charge of redeveloping the centre of Johnsonville, does this risk Johnsonville becoming either:
 - a social housing hub, and / or
 - a residential housing hub
 rather than a metropolitan centre for the city.
- In Stream 4, the JCA submission made it very clear on pages 4 to 7 that the primary purpose of Johnsonville should be that of a metropolitan centre and not that of a residential centre. The JCA made recommendations to the Commission to support that outcome. On page 4 of the JCA submission, the following was stated:

The JCA has real concerns that the WCC has not got the balance correct between:

- *a wide range of commercial, civic and government services, employment, office, community, recreational and entertainment activities*
 - *versus*
 - *residential activities*
- for the Johnsonville metropolitan centre.*

The strong presence of Kainga Ora in the submitters' recommendations about the future of Johnsonville and its metropolitan centre simply reinforces the validity of JCA's concerns about this issue. It is pertinent to emphasise the point that Johnsonville is a suburb with a strong family feel to it and that this is important and worth preserving going forward.

- On page 3 of the JCA Submission, the following recommendation was also made:

the Johnsonville 2008 Town Centre Plan be updated by the WCC in consensus with Johnsonville based organisations including the Johnsonville Metropolitan Centre.

The JCA has previously stated that the future of Johnsonville must not be decided only by the Council with Stride and Investore alone. The JCA is

also absolutely adamant that the future of Johnsonville as a Metropolitan Centre must not be decided by the Council with Kainga Ora and /or the Ministry of Housing and Urban Development alone. Both of these scenarios would completely ignore the significant, valuable and valid knowledge, opinions and wishes of residents and local businesses who only want the very best for their community.

- There are plenty of examples of where the Public Works Act have been able to be used effectively to achieve change. A classic example of this was Wellington using the Public Works Act to develop the motorway leading to the Terrace Tunnel in the 1960s and 1970s. The Council officer must be well aware of this example. Utilisation of the Public Works Act to get Stride/Investore to redevelop the centre of Johnsonville would seem to be “*small beer*” compared to the motorway example given above.

Recommendations:

The Commission to note:

- **the Council officer has not made it clear what he has NOT accepted in this submission point and that this needs to be made clear, and**
- **the JCA has considerable concerns with the idea that the centre of Johnsonville would be planned and developed by Kainga Ora and/or the Ministry of Housing and Urban Development for the reasons set out above.**

The JCA requests the Commission support the JCA’s recommendation to the WCC that submission point 112.1, suggesting that Kainga Ora and/or the Ministry of Housing and Urban Development should be put in charge of planning the development of the centre of Johnsonville, should be rejected.

Minute 27 Table - Page 18 - Submission FA107.1 – Director-General of Conservation

The Table uses an incorrect name (Director-General of Conservation) for this submitter. The correct name is Stride Investment Management Limited.

Recommendation:

The Commission to note correction is needed to FA107.1.

Minute 27 Table - Page 18 - Submission FA107.1 – Stride Investment Management Limited

The Table summarises submission point FA107.1 as follows:

“Stride is opposed to a compensation framework for neighbouring residents of high-density housing developments as this could impose inappropriate costs on development. Disallow”.

The Council officer’s assessment in paragraph 222 of the Section 42A Report on FA107.1 is as follows:

“I do not agree with the JCA that there is a need for compensation for loss in amenity for existing properties or change of zoning or zone provisions. The NPS-UD sets a strong direction that amenity values will change over time to meet the diverse and changing needs of people and that this is not in of itself an adverse effect. I also note that where land has been up-zoned, that landowner has been granted extra development potential, even if they have not taken it up, which is likely to correlate with higher property value, even if neighbouring sites have been developed”.

And in paragraph 223 the Council officer recommends:

“223. WUP1-Rec38: That no changes are made in response to submissions on compensation frameworks”.

The Council officer’s recommendation on page 10 of Part 1 – Appendix A – Recommended Decisions on Submissions for FA107.1 states the following:
“Accept.”

The JCA’s response to the Council officer’s assessment and recommendation is as follows:

- The Council officer acknowledges in his response that there can be a loss of amenity for existing properties where there is a change of zoning or zone provisions. Loss of sunlight is probably the most significant factor regarding the loss of amenity value for a property.
- As outlined earlier in this submission, the New Zealand Motu Study identified that where loss of sunlight is involved the financial loss for a property can be very significant. 2.4% of a property’s financial value can be lost for each hour of sunlight lost. So, on a \$1,000,000 property losing 5 hours of sunlight the property value could fall to \$880,000.
- Amenity protection in Section 7(c) of the Resource Management Act (RMA) has NOT been repealed by the current government.
- Section 7(c) of the RMA requires amenity values to be **maintained and enhanced**. This section has NOT been repealed by the current government.
- The NPS-UD is a government regulation passed by Order in Council. As a government regulation it is subordinate to statutory law, e.g. RMA, passed by Parliament.

- The Council officer indicates that the NPS-UD states that *“amenity values will change over time to meet the diverse and changing needs of people and that this is not in of itself an adverse effect”*. Using the above example, if a change to amenity value resulted in a loss of \$120,000 on a \$1,000,000 property then according to the NPS-UD statement this is not an adverse effect. Clearly, this assessment would not be true. Whereas, under Section 7 (c) of the Resource Management Act this would be deemed to be a crystal-clear situation where amenity value has not been maintained and enhanced.
- Section 7(c) of the Resource Management Act and the NPS-UD statement are clearly in conflict with each other. Statutory law is pre-eminent until it is either repealed or significantly amended so that the conflict between the two forms of legislation are removed.
- To address the loss of amenity for a property one of two solutions are available. Either:
 - compensation is paid by the offending property owner, or
 - the offending property owner mitigates their planning arrangements so that the loss of amenity for a neighbouring property is avoided.
- The courts will order mitigation where amenity values have not been maintained or enhanced. There is a well-known case in Wellington during the last decade where a property owner built a tall fence play fort which blocked his neighbour’s terraced view of the sea. The offending property owner was ordered by the Environment Court in May 2018 to dismantle the tall fence play fort and relocate it lower down on his property. The Aitcheson versus Wellington City Council and Walmsley court case refers.
- The Council has entered into a \$5 million contractual arrangement with Stride with Stride to pay compensation for the improvement of traffic management amenity for the Johnsonville community as outlined earlier in this submission.
- The latter example strongly infers that compensation payments, or their equivalents, are NOT prohibited under legislation when promoting a development or, indeed, in formulating a District Plan. If there is a specific prohibition in the district planning legislation against compensation payments, where is it?
- The Council officer is not correct when he states that *where land has been up-zoned, that landowner has been granted extra development potential, even if they have not taken it up, which is likely to correlate with higher property value, even if neighbouring sites have been developed”*. In this situation, the landowner’s **land value** will increase because of the extra development potential but the **improvement value** (home, garage, etc) will fall substantially because:

- home buyers won't want to buy such a property because of its low amenity value, and
- a developer will typically demolish the home because it is likely to be worthless to a developer.

Such a landowner, surrounded by tall buildings, could also end up being at the mercy of developers potentially providing “*low ball*” price offers for the landowner’s property. So, it is not right for the Council officer to say that the landowner will end up with *higher property value*. **The critical issue here is whether the increase in land value will be higher or lower than the fall in the improvements value?**

The Council officer may also not be correct when he states that the *landowner has been granted extra development potential* because if the family home resides on the land then the development potential may not be usable if the landowner doesn't want to sell.

- In JCA’s response to submission point 429.5, we have outlined multiple examples where there will be a substantial loss of amenity value and therefore financial value that arises from densification.
- An illustration of the latter comment is this example from JCA’s comments on submission point 429.5.

Between the HRZ and the MCZ, a similar adverse effect on amenity will also occur **when a six storey apartment building is located at, or near the edge of, a zone that borders a higher building zone (say from a 6 storey apartment in the HRZ to a 10 storey apartment in the MCZ). This situation could be considerably worsened in a situation where the City Outcomes Contribution provision applies.** In this situation one could have a 6 storey apartment in the HRZ with a 15 storey, or higher, apartment building in the MCZ in front of it. And the worst-case scenario would be if a 1 or 2 storey home in MRZ is located next to a 10 or 15 storey apartment building in a MCZ where the City Outcomes Contribution provision applies to that MCZ.

- In Stride submitter Cameron Wallace’s evidence for Stream 4 there was acknowledgement of the effect of shading (and therefore loss of sunlight) on neighbouring properties thus affecting the amenity value of those properties. In short, loss of amenity value on neighbouring properties IS A RELEVANT ISSUE in densifying Johnsonville.
- In summary, the JCA disagrees with Council officer’s assessment and recommendation for the reasons set out immediately above. The JCA also disagrees with Stride’s position on this matter for the reasons set out above. **Stride or any developer should be required to** either:
 - Compensate neighbouring property owners who lose amenity value, or

- mandatorily mitigate its planning arrangements, as set out in JCA's comments in relation to submission point 429.5, to minimize loss of amenity value to neighbouring property owners.
- Any loss of amenity value (and particularly for the loss of sunlight) **should be required in the PDP** to be either:
 - compensated for to neighbouring property owners, and / or
 - mandatorily mitigated against in its planning arrangements to minimize loss of amenity value to neighbouring property owners if compensation is not appropriate.
- Developers, including Stride, should therefore be required in the PDP to either:
 - provide financial compensation to neighbouring property owners for loss of amenity value, and / or
 - be required to mandatorily mitigate their planning arrangements to minimize loss of amenity value to neighbouring property owners if compensation is not appropriate.

Recommendations:

The Commission to note:

- **that there are multiple situations as outlined above where neighbouring properties to high rise buildings will incur a loss of amenity including a loss of sunlight and therefore a loss of financial value on their properties, and**
- **there are multiple situations as outlined above where the Council officer's argument does not cover these situations, and**
- **that there is an economic wealth transfer to developers who benefit financially substantially from higher building height development opportunities, and**
- **developers are therefore in a position to compensate or mitigate loss of amenity arising from their developments**

The JCA requests the Commission support the JCA's recommendations to the WCC that:

Developers should be required in the PDP to either:

- **provide financial compensation to neighbouring property owners for loss of amenity value, and / or**
- **be required to mandatorily mitigate their planning arrangements to minimize loss of amenity value to neighbouring property owners if compensation is not appropriate.**

Minute 27 Table - Page 18 - Submission FA108.1 – Investore Property Limited

The Table summarises submission point FA108.1 as follows:

“Investore is opposed to a compensation framework for neighbouring residents of high-density housing developments as this could impose inappropriate costs on development. Disallow”.

The Council officer’s assessment in paragraph 222 of the Section 42A Report on FA108.1 is as follows:

“I do not agree with the JCA that there is a need for compensation for loss in amenity for existing properties or change of zoning or zone provisions. The NPS-UD sets a strong direction that amenity values will change over time to meet the diverse and changing needs of people and that this is not in of itself an adverse effect. I also note that where land has been upzoned, that landowner has been granted extra development potential, even if they have not taken it up, which is likely to correlate with higher property value, even if neighbouring sites have been developed”.

And in paragraph 223 the Council officer recommends:

“223. WUP1-Rec38: That no changes are made in response to submissions on compensation frameworks”.

The Council officer’s recommendation on page 10 of Part 1 – Appendix A – Recommended Decisions on Submissions on FA108.1 states the following:
“Reject”.

The JCA’s response to the Council officer’s assessment and recommendation on FA108.1 is as follows:

- The Council officer acknowledges in his response that there can be a loss of amenity for existing properties where there is a change of zoning or zone provisions. Loss of sunlight is probably the most significant factor regarding the loss of amenity value for a property.
- As outlined earlier in this submission, the New Zealand Motu Study identified that where loss of sunlight is involved the financial loss for a property can be very significant. 2.4% of a property’s financial value can be lost for each hour of sunlight lost. So, on a \$1,000,000 property losing 5 hours of sunlight the property value could fall to \$880,000.
- Amenity protection in Section 7(c) of the Resource Management Act (RMA) has NOT been repealed by the current government.
- Section 7(c) of the RMA requires amenity values to be **maintained and enhanced**. This section has NOT been repealed by the current government.

- The NPS-UD is a government regulation passed by Order in Council. As a government regulation it is subordinate to statutory law, e.g. RMA, passed by Parliament.
- The Council officer indicates that the NPS-UD states that *“amenity values will change over time to meet the diverse and changing needs of people and that this is not in of itself an adverse effect”*. Using the above example, if a change to amenity value resulted in a loss of \$120,000 on a \$1,000,000 property then according to the NPS-UD statement this is not an adverse effect. Clearly, this assessment would not be true. Whereas, under Section 7 (c) of the Resource Management Act this would be deemed to be a crystal-clear situation where amenity value has not been maintained and enhanced.
- Section 7(c) of the Resource Management Act and the NPS-UD statement are clearly in conflict with each other. Statutory law is pre-eminent until it is either repealed or significantly amended so that the conflict between the two forms of legislation are removed.
- To address the loss of amenity for a property one of two solutions are available. Either:
 - compensation is paid by the offending property owner, or
 - the offending property owner mitigates their planning arrangements so that the loss of amenity for a neighbouring property is avoided.
- The courts will order mitigation where amenity values have not been maintained or enhanced. There is a well-known case in Wellington during the last decade where a property owner built a tall fence play fort which blocked his neighbour’s terraced view of the sea. The offending property owner was ordered by the Environment Court in May 2018 to dismantle the tall fence play fort and relocate it lower down on his property. The Aitcheson versus Wellington City Council and Walmsley court case refers.
- The Council has entered into a \$5 million contractual arrangement with Stride with Stride to pay compensation for the improvement of traffic management amenity for the Johnsonville community as outlined earlier in this submission.
- The latter example strongly infers that compensation payments, or their equivalents, are NOT prohibited under legislation when promoting a development or, indeed, in formulating a District Plan. If there is a specific prohibition in the district planning legislation against compensation payments, where is it?
- The Council officer is not correct when he states that *where land has been up-zoned, that landowner has been granted extra development potential, even if they have not taken it up, which is likely to correlate with higher property value, even if neighbouring sites have been*

developed". In this situation, the landowner's **land value** will increase because of the extra development potential but the **improvement value** (home, garage, etc) will fall substantially because:

- home buyers won't want to buy such a property because of its low amenity value, and
- a developer will typically demolish the home because it is likely to be worthless to a developer.

Such a landowner, surrounded by tall buildings, could also end up being at the mercy of developers potentially providing "*low ball*" price offers for the landowner's property. So, it is not right for the Council officer to say that the landowner will end up with *higher property value*. **The critical issue here is whether the increase in land value will be higher or lower than the fall in the improvements value?**

The Council officer may also not be correct when he states that the *landowner has been granted extra development potential* because if the family home resides on the land then the development potential may not be usable if the landowner doesn't want to sell.

- In JCA's response to submission point 429.5, we have outlined multiple examples where there will be a substantial loss of amenity value and therefore financial value that arises from densification.
- An illustration of the latter comment is this example from JCA's comments on submission point 429.5.

Between the HRZ and the MCZ, a similar adverse effect on amenity will also occur **when a six storey apartment building is located at, or near the edge of, a zone that borders a higher building zone (say from a 6 storey apartment in the HRZ to a 10 storey apartment in the MCZ). This situation could be considerably worsened in a situation where the City Outcomes Contribution provision applies.** In this situation one could have a 6 storey apartment in the HRZ with a 15 storey, or higher, apartment building in the MCZ in front of it. And the worst-case scenario would be if a 1 or 2 storey home in MRZ is located next to a 10 or 15 storey apartment building in a MCZ where the City Outcomes Contribution provision applies to that MCZ.

- In Stride submitter Cameron Wallace's evidence for Stream 4 there was acknowledgement of the effect of shading (and therefore loss of sunlight) on neighbouring properties thus affecting the amenity value of those properties. In short, loss of amenity value on neighbouring properties IS A RELEVANT ISSUE in densifying Johnsonville.
- In summary, the JCA disagrees with Council officer's assessment and recommendation for the reasons set out immediately above. The JCA also disagrees with Investore's position on this matter for the reasons set out above. **Investore or any developer should be required to either:**

- Compensate neighbouring property owners who lose amenity value, or
- mandatorily mitigate its planning arrangements, as set out in JCA's comments in relation to submission point 429.5, to minimize loss of amenity value to neighbouring property owners.
- Any loss of amenity value (and particularly for the loss of sunlight) **should be required in the PDP** to be either:
 - compensated for to neighbouring property owners, or
 - mandatorily mitigated against in its planning arrangements to minimize loss of amenity value to neighbouring property owners if compensation is not appropriate.
- Developers, including Investore, should therefore be required in the PDP to either:
 - provide financial compensation to neighbouring property owners for loss of amenity value, or
 - be required to mandatorily mitigate their planning arrangements to minimize loss of amenity value to neighbouring property owners if compensation is not appropriate.

Recommendations:

The Commission to note:

- **that there are multiple situations as outlined above where neighbouring properties to high rise buildings will incur a loss of amenity including a loss of sunlight and therefore a loss of financial value on their properties, and**
- **there are multiple situations as outlined above where the Council officer's argument does not cover these situations, and**
- **that there is an economic wealth transfer to developers who benefit financially substantially from higher building height development opportunities, and**
- **developers are therefore in a position to compensate or mitigate loss of amenity arising from their developments**

The JCA requests the Commission support the JCA's recommendations to the WCC that:

Developers should be required in the PDP to either:

- **provide financial compensation to neighbouring property owners for loss of amenity value, and / or**
- **be required to mandatorily mitigate their planning arrangements to minimize loss of amenity value to neighbouring property owners if compensation is not appropriate.**

Minute 27 Table - Page 18 - Submission FS80.48 – Onslow Residents Community Association

The Table summarises submission point FS80.48 as follows:

“Support the submission regarding more provision for green space in Johnsonville and generally throughout the city. Allow”.

The Council officer provides no assessment of submission point FS80.48 in his Section 42A Report. The Council officer’s recommendation on page 11 of Part 1 – Appendix A – Recommended Decisions on Submissions states the following: *“Reject”*.

The JCA’s response to the Council officer’s assessment and recommendation on FS80.48 is as follows:

- The JCA appreciates the support of our immediate southern neighbouring association, the Onslow Residents Community Association, for the provision of green space in Johnsonville.
- The JCA also supports the Onslow Residents Community Association recommendation concerning the provision of green space generally throughout the city particularly where high levels of densification is earmarked. Green space will be a much-needed facility for residents in highly densified areas in the future.
- The JCA also notes that the Council officer stated in paragraph 296 of the Section 42A Report the following:
“296. I agree with Mt Victoria Residents’ Association [342.8] that investment in green and open spaces needs to be undertaken alongside intensification.

The Council officer’s position in relation to investing in green and open spaces for areas of the city, including Johnsonville, subject to densification is therefore conflicting, confused and not consistent. The strategic planning focus on this issue is therefore not fully integrated.

Recommendations:

The Commission to note the JCA supports the Onslow Residents Community Association submission point FS80.48.

The JCA requests the Commission support the JCA’s recommendation to the WCC that the provision of green space generally throughout the city particularly where high levels of densification is earmarked.

Minute 27 Table - Page 22 – Submission 400.92 – Ministry of Education

The Table summarises submission point 400.92 as follows:

“Submitter considers that educational facilities should be enabled as part of urban growth and development and are considered in any zoning changes made. The submitter notes that various changes are proposed to the zoning of land throughout the district. Changes in zoning have the potential to result in changes in development and in the population size and demographic of residents throughout the district, which can consequently impact on the capacity of educational facilities. The submitter acknowledges the changing nature of zoning and development within a district as part of the District Plan process. Seeks that educational facilities are enabled as part of urban growth and development and are considered in any zoning changes made”. (Also see page 3, submission point 400.2 regarding similar recommendation).

The Council officer’s assessment in paragraphs 266 and 267 of the Section 42A Report on 400.92 is as follows:

266. I agree in principle that it is beneficial to enable educational facilities as appropriate to the relevant zone and area of the environment and invite the ministry to work with the Council to coordinate growth with the development of educational facilities.

267. WUP1-Rec50: That no changes are made in response to submissions on educational facilities.

The Council officer’s recommendation on page 12 of Part 1 – Appendix A – Recommended Decisions on Submissions for 400.92 states the following: “Accept”.

The JCA’s response to the Council officer’s assessment and recommendation on 400.92 is as follows:

- Schools’ infrastructure upgrades will need to be fully integrated with increased population densification. This requires fully integrated urban planning to take place between the Council and the Ministry of Education WITH local schools.
- The JCA particularly notes the comment from the Ministry of Education in submission point 400.2 which states the following:

*Seeks that **explicit provision is given to educational facilities** throughout the urban environment to enable the submitter **to manage the impacts of growth and development on educational facilities, in particular impacts on school capacity**. The submitter considers that providing for educational facilities in Wellington through the strategic policy framework will support the provision of new and expansion of existing educational facilities in the Wellington region.*

Implicit in this submission is the requirement for school infrastructure capacity shortfalls to be fully rectified before densification proceeds.

- The JCA fully supports Ministry of Education's submissions points 400.2 and 400.92.

Recommendations:

The Commission to note the JCA supports the Ministry of Education submission points 400.2 and 400.92 because the recommendations are trying to ensure the education infrastructure capacity is in place before population increases occur.

OTHER SECTION 42A REPORT ISSUES RE THE WRAP UP – PART 1

Green Space Objectives Are Missing for the Metropolitan Centre Zones

The Council officer Section 42A Report on Green Spaces (refer to paragraphs 173/174) objects to the Statutory Officer's Section 42A Report on Green Spaces (refer to paragraphs 173/174) statutory inclusion of the Green Spaces Network Plan being included in the PDP. In doing so, the Council officer says green space is supported in the PDP objectives for City Centre Zone (CCZ). He notes the following paragraph: "*174. The reporting officer in the [s42A report for hearing stream 4](#) identified at para 153 how the PDP does this*" in **CCZ-02**.

Under the PDP, the Metropolitan Centre Zones fulfill a similar purpose for supporting a growing city as the City Centre Zone. **However**, the more specific statement of objectives, including about green space, is **not** reflected in the equivalent PDP objective for Metropolitan Zone **MZC-02**.

The JCA requests that the MZC-02 is updated to include the more detailed objective statement for "**Accommodating growth**" as outlined in the CCZ-02.

Accordingly, MCZ-02 should read:

The Metropolitan Centre Zone plays a significant role in accommodating growth and has sufficient serviced, resilient **development capacity** to meet commercial and residential growth needs, including:

1. A choice of **building** type, size, affordability and distribution, including forms of medium and high-density housing;
 2. Convenient **access** to active and **public transport activity** options;
 3. Efficient, well integrated and strategic use of available development sites;
- and
4. Convenient **access** to a range of open space, including green space, and supporting **commercial activity** and **community facility** options.

Recommendations:

The Commission to note that green space objectives are missing for the metropolitan centre zones.

The JCA requests the Commission support the JCA's recommendations to the WCC that

- the MZC-02 is updated to include the more detailed objective statement for "Accommodating growth" as outlined in the CCZ-02, and
- MCZ-02 should read:
The Metropolitan Centre Zone plays a significant role in accommodating growth and has sufficient serviced, resilient **development capacity** to meet commercial and residential growth needs, including:
 1. A choice of **building** type, size, affordability and distribution, including forms of medium and high-density housing;
 2. Convenient **access** to active and **public transport activity** options;
 3. Efficient, well integrated and strategic use of available development sites; and
 4. Convenient **access** to a range of open space, including green space, and supporting **commercial activity** and **community facility** options.

Notification Issue

In the following paragraphs of the Section 42A Report there are matters of concern to the JCA in relation to Notification as follows:

144. Kāinga Ora [391.6] - Supports the preclusion of public notification for activities under Restricted Discretionary status.

145. Kāinga Ora [391.8] (Supported by Stride Investment Management Limited [FS107.35] and Investore Property Limited [FS108.35]) - Seeks that the preclusion of limited notification is applied beyond a development site, for breaches such as outdoor living space infringements.

The Council officer's recommendations on page 3 of Part 1 – Appendix A – Recommended Decisions on submissions 391.6 and 391.8 states the following: "Accept in part" for both submissions.

The Council officer's recommendations on page 3 of Part 1 – Appendix A – Recommended Decisions on submissions FS107.35 and FS108.35 states the following:

“Accept in part” for both submissions.

The JCA’s response to the Council officer’s assessment and recommendations on 391.6, 391.8, FS107.35 and FS108.35 is as follows:

The JCA does not support the Council officer’s recommendations. If the preclusion of limited notification *is applied beyond a development site, for breaches such as outdoor living space infringements* this could directly impact a neighbouring property including causing a loss of sunlight and amenity to those neighbouring properties.

This is just an appalling bad decision by a Council officer. The JCA is of the very firm view that this appalling bad decision should not be supported by the Commission. The JCA considers that Kainga Ora, Stride and Investore and any other developers in this situation should have to go through a properly notified Council process.

Recommendations:

The Commission to note the above concerns from the JCA about these recommendations.

The JCA requests the Commission support the JCA’s recommendation to the WCC that:

- **submitter recommendations 391.6, 391.8, FS107.35 and FS108.35 not be accepted by the WCC, and**
- **developers, in these situations, be required to go through a properly notified Council process.**

Transition Between Zones Issue

In the following paragraphs of the Section 42A Report there are matters of concern to the JCA in relation to the issue of transition between different zones as follows:

185. Kāinga Ora [391.743, 391.744] seeks consequential amendments for all rules to reflect the High-Density Residential Development rules.

On page 13 In Appendix A these submissions are explained as follows: Seeks amendments to the rules to make all necessary consequential changes in response to the rezoning of those parcels which are identified for Medium Density Residential Zone to High Density Residential Zone. This rezoning is sought as considers the sites adjoin the metropolitan centres and thereby the adjoining zoning should appropriately be High Density Residential Zone. Considers this zone would also align in the outcomes sought in the overarching submission.

186. Willis Bond and Company Limited [416.94] seeks that Council consider the relationship between the Medium Density Residential Zone and denser zones to ensure development is not unduly restricted in denser zones by greater restrictions and Council discretion.

On page 13 of Part 1 – Appendix A – submission point 416.94 is further explained as follows:

Submitter notes the effect that the more permissive medium density residential standards will have on other zones. The zones supporting higher density development have more restrictive standards than in the MRZ, creating a risk that new development is concentrated in the more permissive MRZ at the exclusion of denser zones where Council wishes to encourage greater development. The PDP should ensure that the restrictions within denser zones are not substantially more restrictive than within the MRZ [Refer to original submission for full reason].

The Council officer's recommendation on page 13 of Part 1 – Appendix A – Recommended Decisions on Submissions for 416.94 states the following: "Accept".

On page 13 of Part 1 – Appendix A – submission points 391.741 and 391.744 are further explained as follows:

Seeks amendments to the rules to make all necessary consequential changes in response to the rezoning of those parcels which are identified for Medium Density Residential Zone to High Density Residential Zone. This rezoning is sought as considers the sites adjoin the metropolitan centres and thereby the adjoining zoning should appropriately be High Density Residential Zone. Considers this zone would also align in the outcomes sought in the overarching submission.

The Council officer's recommendation on page 13 of Part 1 – Appendix A – Recommended Decisions on Submissions for 391.741 and 391.744 states the following:

"Accept in part".

The Council officer's assessment of these submission points in paragraph 190 of the Section 42A Report is as follows:

190. Kāinga Ora [391.743, 391.744] and Willis Bond and Company Limited's [416.94] relief will be partially granted in the determination of eventual built form standards of lower and higher order zones where there will be transition

between higher and lower density. For example, if height increases are accepted in an area of HRZ, any adjacent land zoned LCZ will need to be increased so as to avoid a scenario where commercially zoned land has less development potential enabled than residential land.

The JCA's response to the Council officer's assessment and recommendation on 391.743, 391.744 and 416.94 is as follows:

The Council officer's decision is an appallingly bad decision. The NPS-UD itself requires the higher building zone to use a transition zone of stepped setbacks and recession planes to manage the transition from the lower building height zone to the higher building height zone. The Council officer's decision indicates incorrectly that the transition is to take place in the lower building height zone.

Recommendations:

The Commission to note:

- **the JCA's concerns about this transition between zones issue and the fact that what is proposed is not compliant with the NPS-UD, and**
- **this reinforces the need for clear planning rules in respect of these transition between zones.**

The JCA requests the Commission support the JCA's recommendations to the WCC that

- **submitter recommendations 391.743, 391.744 and 416.94 not be accepted by the WCC, and**
- **developers, in these situations, be required to comply with NPS-UD requirements so that the higher building zone has to use within its zone a transition zone of stepped setbacks and recession planes to manage the transition from the lower building height zone to its higher building height zone.**

Height Limits and the City Outcomes Contribution Provision

In paragraph 213 of the Section 42A Report the Council officer makes the following observation:

"213. I will also note that the City Outcomes Contribution mechanism provides a means to exceed height limits in certain zones if they enhance the amenity of the public realm".

The JCA simply notes the main effect of the City Outcomes Contribution provision on the public realm is damage. The provision cause uncertainty for the neighbourhood in terms of loss of sunlight, loss of financial value, loss of privacy, etc. It is therefore unlikely to add value to the public realm.

Recommendations:

The JCA requests the Commission:

- **Accept** the Council Officer recommendation to remove the High-Density Residential Zone (HRZ) from the scope of the City Outcomes Contribution
- **Reject** the Council Officer recommendation to retain the Metropolitan Centre Zone (MCZ) within the scope of the City Outcomes Contribution. The City Outcomes Contribution should not be part of the PDP.

Legal Advice on the City Outcomes Contribution (COC) Issue

The Commission has sought independent legal advice on the legality of the COC provision. That legal advice has questioned the lawfulness of the COC provision in relation to two matters.

The JCA supports the findings from the legal advice that:

- The COC provision creates uncertainty, and
- Developers who don't use the COC provision being made subject to mandatory notification is punitive.

It is not clear to the JCA whether there is going to be a right of reply to the Council officer's report back to the Commission on her response to the written legal report's findings.

Old Library Site and Usage of City Outcomes Contribution (COC) for that Site

At the back of Council officer's (Anna Steven) Right of Reply report on the 1st page of Appendix 6 there is a Development Scenario which states, in relation to COC and the old library site, the following:

- building height up to 53 metres (this is 35 metres plus exceeding 50% allowance from COC), and
- green space as a garden (and related COC points) and not a park.

This scenario illustrates all too clearly how far apart the Council is with the JCA and the JBA on the utilization of this space in Johnsonville.

Well-Functioning Urban Environments – Pillars versus Pedestals

The JCA would like to flag the following fundamental question for consideration by the Commission.

Are well-functioning urban environments those where the issues of:

- building heights, and
 - efficient usage of land
- operate as either:

- **pillars** that underpin and therefore support a well-functioning urban environment, or
- **pedestals** that sit above, and therefore may not support, a well-functioning urban environment?

The JCA's position is that the building heights and the efficient usage of land must always be used as pillars, and NOT as pedestals, that support a well-functioning urban environment. We are not certain that the Council has the same position as the JCA on this fundamental question.

Conclusion

The decisions about this PDP are the biggest change to the city of Wellington in at least the last 50 to 60 years if not longer than that. Decisions about the PDP will affect Johnsonville in particular for the next 50 to 100 years. It is therefore fundamental that those decisions are sound and right. Prescient wisdom is the pre-eminent requirement to achieve this together with fully integrated planning to ensure that the end outcomes are well functioning urban environments.

Warren Taylor
on behalf of the Johnsonville Community Association